

PR 93-61

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WASHINGTON

January 13, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Joe Barton
U.S. House of Representatives
1514 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Barton:

Thank you for your thoughts regarding the Commission's proceeding in PR Docket No. 93-61, to develop regulations for Automatic Vehicle Monitoring (AVM) systems operating in the 902-928 MHz band. In your letter you raise the issue of further testing as well the ability to structure a spectrum plan that allows for shared use.

As you know, the 902-928 MHz band has a history of shared uses. This circumstances creates an added level of complexity to the proceeding. Specifically, the spread spectrum-based technology used pursuant to Part 15 of the Commission's rules that has evolved and the various AVM systems technologies, while but two of the categories of uses in this band, represent the difficult challenge the Commission faces in seeking to balance the competing interests. The significant development of these uses during recent years places a premium on endeavoring to ensure opportunity for continued growth. Structuring a competitive environment as well as one providing for the various uses to pursue accommodation among and between themselves has been a goal of the proceeding.

With regard to unlicensed Part 15 devices, the Commission in 1990 modified its rules to permit enhanced operation of this spread spectrum technology in the 902-928 MHz band. The record reflects that since this time the number of equipment manufacturers, as well as entrepreneurial entities, developing devices and implementing systems have proliferated. The products range from cordless phones with significantly enhanced voice quality, to wireless local networks in offices and buildings enabling tetherless voice and data transmissions, to utility companies being able to monitor meters from remote locations. Parties representing Part 15 devices assert that their products and services are at critical stages both in terms of being presented to the market place and in determining the level of future investment.

As you note in your recent letter, as well as your August 23, 1994 correspondence, there are also substantial opportunities for development and economic growth in the various AVM systems that use or seek to use the 902-928 MHz band. The current "interim" rules have been in place for 20 years. Moreover, the record indicates that AVM offers the potential to enhance public safety and convenience significantly as well as increasing the efficiency and effectiveness of private sector transportation activities. AVM advocates have also stressed the pivotal juncture the industry is at, including some who indicate that the present "interim" rules are deterring investment.

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In seeking to balance the interests at stake, the Commission must weigh several elements in pursuing an environment that encourages expanding competition among products and services. As reflected in your letter, this includes not simply the interests of Part 15 devices versus AVM systems, but the compatibility among various AVM systems, multilateration and non-multilateration. The legitimate expectations on the part of consumers and manufacturers, as well as the potential investment and growth opportunities of all those with interests at stake in this proceedings, must be weighed. Notably, the effort is not to seek a resolution that has winners and losers by the Commission selecting one interest to the exclusion of others, but to allow the marketplace to make such a determination. All parties should have the opportunity to pursue their business plan. The history and success of the users in the 902-928 MHz band does create confines that limit alternatives and require accommodation. Where all parties remain viable competitors, even though they must undertake efforts to adapt, however, the ultimate goal of broadening consumer choice is more likely to emerge.

With regard to testing, a number of parties have expressed the desire and need for additional testing to demonstrate the feasibility of multiple services to coexist. The record contains significant information on the issue of mutual coexistence, which was submitted in the form of theoretical analyses, demonstrations and testing. The Commission's staff has carefully reviewed and evaluated this information. Throughout the proceeding there have been suggestions that additional field tests be conducted. The Commission has encouraged parties to participate in cross-industry discussions and testing regarding the technical capability of the various uses and afforded substantial opportunity for the results to be considered by the Commission. As is frequently the case, the advocacy by any one party, whether relating to testing or any other issue, tends to urge the primacy of that party's interest, and not a resolution that seeks to accommodate all users, particularly competitors. As a result, while a range of additional field tests have been proposed, cooperation to produce tangible results have been lacking. Even Commission-ordered testing might not produce unequivocal results. Notably, while some parties continue to advocate the proceedings be delayed for testing, others argue that testing would produce no constructive results, and that further delay would be damaging to their business plans.

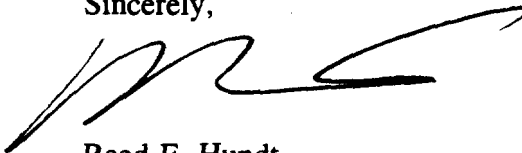
In summary, it is within this context that the Commission has approached this proceedings. Without question, the task would be less challenging in the absence of the history of various uses in this band. This history cannot easily be ignored. The significant investment and development that has taken place is reflective of the tremendous importance telecommunications is to the economy. Establishing the parameters of a spectrum plan that, while requiring accommodation, allows users within a particular service an opportunity to compete, also seeks to create an impetus for the parties to resolve particular matters on their

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own and not through lengthy proceedings. Such a structure embraces an environment where the most efficient and effective use of the spectrum is brought about by fair competition.

I appreciate very much receiving your letter. Please call upon me if I can provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Hundt', written in a cursive style.

Reed E. Hundt
Chairman

PS Many thanks for your views —
please call anytime
PS

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Congress of the United States
House of Representatives
Washington, DC 20515-4306
December 29, 1994

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20054

Dear Chairman Hundt:

I am writing about your upcoming decision dealing with Automatic Vehicle Monitoring (AVM) systems (PR Docket Number 93-61). I am very interested in helping you find a workable solution to this issue.

On December 27, 1994, at your suggestion, I had a telephone conversation with John Logan, Deputy Director of Legislative Affairs, Office of Legislative and Intergovernmental Affairs, and Rosalind Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau of the Commercial Mobile Services Division, Wireless Bureau. Their comments were professional and informative.

I understand the sensitivity of this issue and the Commission's desire to promulgate a new policy in the near future. However, given the long-term consequences of any new policy, I believe some further actions need to be considered before making final policy. One such action I would recommend is an objective testing program conducted directly by FCC staff or under the direction of FCC staff. What test data is available has already been presented by the parties interested in the new policy.

I very strongly feel that, before issuing any new regulations, the FCC should immediately organize an unbiased test program done under the auspices of the FCC in which the interested parties share the cost. The FCC should then make a decision based on the outcome of these tests. I believe the tests can be completed within one or two months, a short delay which is very appropriate given (1) the importance of fully resolving these claims before issuing regulations, and (2) the long period of time this issue has been pending.

If an unbiased testing program is considered unworkable, I recommend that proposed regulations be developed that (1) set aside part of the relevant spectrum for shared use, with a size based generally on existing regulations, (2) auction off the remainder of the spectrum for users who believe their system must use exclusive spectrum, and (3) move other users, who neither wish to purchase spectrum through auction nor participate in shared spectrum, to a different spectrum band altogether.

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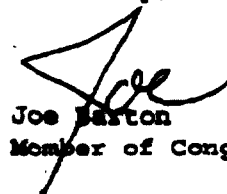
817-543-1000 (main number for all offices)

I am very concerned about the possibility of unfairly impairing the development of new technologies, including AVM systems, which contend they can share spectrum with other users. I feel that unreasonably reducing the amount of shared spectrum that has been used to develop these technologies may be in conflict with Section 309 provisions of the Communications Act provisions regarding avoiding mutual exclusivity.

Should you wish, I am very willing to petition Jack Fields, Chairman of the House Commerce Subcommittee on Telecommunications and Finance, of which I am a member, for a full hearing on this issue. Similarly, I am also willing to work with you, the Commissioners, and FCC staff to craft a solution which does not involve full hearings.

I anticipate that this issue can be resolved in the near future, including the time spent for testing. I look forward to hearing from you.

Sincerely,



Joe Barton
Member of Congress

JB:ab

cc: Commissioner James Quello
Commissioner Andrew Barrett
Commissioner Susan Ness
Commissioner Rachelle Chong